

No. 2 - October Term, 1956

Olata O'Connor Yates, Petr  
v.  
United States of America } On writ of certiorari to the  
United States Court of Appeals  
for the Ninth Circuit.

[November —, 1957.]

Mr. Justice Clark delivered the opinion of the Court.

This case is one of criminal contempt of court for refusal to answer questions at ~~the~~ a Smith Act trial. Petitioner, and thirteen others were indicted ~~and convicted~~ for conspiring to violate ~~the~~, admittedly a high executive officer of the Communist Party of California, and thirteen co-defendants were indicted and convicted of conspiring to violate the Smith Act. During the trial, petitioner refused ~~on cross-examination~~ to answer 11 questions relating to whether petitioner and the others were members of the Communist Party. The district court ~~adjudged~~ held petitioner guilty of ~~the~~ <sup>in</sup> contempt of court for each refusal to answer, and imposed eleven concurrent sentences of ~~one year each~~ <sup>one year each</sup>. The primary question ~~of the case~~ <sup>presented</sup> is whether these ~~refusals constituted~~ <sup>constituted</sup> an illegal multiplication of

*The judgment was affirmed by appeal*

1. This Court reversed the convictions in the principal case during the past Term ~~Yates v. United States~~ because ~~of the~~ <sup>structure</sup> embodied an erroneous interpretation of the Smith Act. Yates v. United States, 354 U.S. 907 (1957).

✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓

No. 2 - October Term, 1921

United States of America  
v.  
Oscar O. Brown, Peter  
for the United States }  
On writ of certiorari to the  
United States Court of Appeals

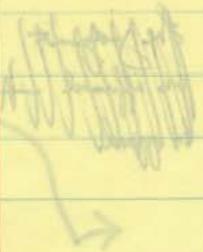
[Transfer - 1921]

Mr. Justice Clark delivered the opinion of the Court.

This case is one of several cases of writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit, which were granted by this Court on October 11, 1921.

which were to commence upon the defendant's release from custody following expiration of the five-year sentence imposed in the conspiracy case.

~~During the trial, the defendant, Oscar O. Brown, was charged with conspiracy to defraud the United States, and with receiving stolen goods. The indictment was returned on October 11, 1920, at the District Court of the District of Columbia. The defendant was held to answer to the charges. On October 11, 1921, the defendant was sentenced to a term of five years in the Federal Reformatory for Women at Alderson, West Virginia, and to a term of five years in the Federal Reformatory for Men at Leavenworth, Kansas. The defendant was released from custody on October 11, 1921.~~



It is the duty of the Court to review the conviction and sentence in the original case. The Court has done so in this case. The conviction and sentence are affirmed. (1921) 254 U.S. 207 (1921)

✓ ✓ ✓ ✓ ✓ ✓ ✓

We granted certiorari. 350 U.S. 447.

107 F. Supp. 412 (S.D. Cal. 1952). This judgment ~~was affirmed by the Court of Appeals.~~ 22 P.F. 2d 851 (9th Cir. 1951). The principal question presented is whether ~~such a judgment is an~~ ~~illegal multiplication~~ the finding of a separate contempt for such refusal is an illegal multiplication of contempts, ~~if these refusals constitute a new refusal constitutes an illegal multiplication of~~ contempts. We ~~find~~ <sup>hold</sup> that it does, and ~~find~~ <sup>find</sup> that only one contempt has been committed.

The circumstances of petitioner's conviction are these. After the Government had rested its case in the Smith Act trial, all but four of the defendants — petitioner and three others — rested their cases. Petitioner took the stand and testified in her own defense. <sup>at the afternoon session of</sup> ~~the first day~~ <sup>of her cross-examination,</sup> June 26, 1952, she refused to answer four questions about the Communist membership <sup>and of a</sup> co-defendant who had rested his case. <sup>is a co-defendant</sup> ~~the first refusal was~~ ~~she refused~~ to answer the first ~~the first refusal was stated to be because~~ In refusing to answer, she stated, " . . . that is a question which, if I were to answer, could only lead to a situation in which a person could be caused to suffer the loss of his job . . . and perhaps be subjected to further harassment, and . . . I can-

2. <sup>Mrs. Yates</sup> At the morning session, ~~she~~ indicated that she would ~~answer~~ answer questions as to the Party membership of co-defendants who had not rested their cases, and in fact <sup>she</sup> did so.

not being myself to contribute to that." She added that, "However many times I am asked and in however many forms, to identify a person as a communist, I can't bring myself to do it...." The district court adjudged her guilty of civil contempt for refusing to answer these questions, and committed her to jail until she should purge herself by answering the questions or until further order of the court. She remained in jail until the conclusion of the trial.<sup>3</sup>

despite instructions from the court to answer,

On the ~~first~~<sup>third</sup> day of petitioner's cross-examination, June 30, 1952, petitioner refused to answer 11 questions concerning Communist membership of 11 persons which in one way or another called for her to identify other persons ~~as~~<sup>as</sup> Communists. The ground for refusal in these instances was petitioner's belief that either the person named or his family could "be hurt by" identification such testimony. She ~~was~~<sup>was</sup> willing to, and in fact in one instance did, identify others ~~as~~<sup>as</sup> Communists <sup>that day</sup> if she knew she could not hurt either ~~of them~~<sup>of them</sup> in

Since the trial was over and the jury disbanded, so that there was no one to whom petr could purge the civil contempt.

<sup>3</sup> The trial ended on Aug. 5, 1952. Petitioner was confined under the judgment of conviction in the principal case until Aug. 30, 1952, when she was released on bail pending appeal in that case. She was ~~again~~<sup>re</sup> confined on Sept. 3, 1952, under the civil contempt order of June 26. She was released on bail on Sept. 6, 1952, pending appeal from the order directing her reconfinement. That order was reversed on appeal, *Yates v. United States*, 227 F. 2d 844. Petitioner was ~~once more~~<sup>again</sup> confined on Sept. 8, 1952, pursuant to a criminal contempt judgment based on her refusal to answer questions on June 26. She was released on bail on Sept. 11, 1952, pending appeal from that judgment, which was later reversed on appeal, *Yates v. United States*, 227 F. 2d 848. Neither that contempt nor its reversal is under review in the present case.  
<sup>4</sup> The judgment was affirmed on appeal. *Yates v. United States*, 227 F. 2d 844.

because the district court had given her no notice at the time of the trial that he expected to hold her in criminal contempt ~~over~~

Neither the civil nor the criminal con-

tempt sentences for the June 26 refusals to answer.

on that same day, after the district court had adjudged her

one under review in the present case.

tempt sentences for the June 26 refusals, nor their reversals,



such identification would not hurt them.

~~has belief to her knowledge such injury would not occur.~~  
The court stated that ~~these refusals would~~ be expected to treat these "refusals as criminal contempt under Rule 42 (a) of the Federal Rules of Criminal Procedure," thus ~~diminishing the~~ <sup>problem of notice that was treated as another aspect of the</sup> ~~judges.~~ Adjudication of the contempt was deferred until completion of the ~~Smith case.~~ <sup>juvicial case.</sup>

Acting under  
sub-section  
(3) of  
18 U.S.C.  
§401,

After conviction and imposition of sentence on the conspiracy case, the court, ~~the~~ <sup>advised</sup> ~~judged~~ <sup>found</sup> guilty of ~~separate~~ <sup>criminal</sup> ~~contempt~~ for her 11 refusals to answer questions on June 30.

No question is raised as to the form or content of the specifications.

**P. 3**  
**Burton**

**INSERT ¶ I.**

No challenge is made to the ~~existence of the~~ <sup>existence of the</sup> ~~contempt power of the~~ <sup>contempt power of the</sup> ~~court.~~ No challenge is made to the ~~existence~~ <sup>existence</sup> of summary contempt power on the federal courts. As stated in Ex Parte 2 Such power, "... although arbitrary in its nature and liable to abuse, is absolutely essential to the protection of the courts in the discharge of their functions.

4. Other than co-defendants who had not yet noted their case. See note 2, supra.

5. (old note 3)

~~6. (old note 4)~~

64. " §401, ~~Section of the United States~~ Power of Court. A court of the U.S. etc (old note 5).

*[Faint, mostly illegible handwriting at the top of the page, possibly containing a title or introductory text.]*

The undersigned <sup>one</sup> ~~of~~ ~~the~~ ~~part~~ ~~was~~ ~~in~~ ~~the~~ ~~case~~ ~~of~~ ~~the~~ ~~plaintiff~~ ~~vs~~ ~~the~~ ~~defendant~~

*[Several lines of very faint and illegible handwriting in the middle section of the page.]*

I.P. 79261

\*

10/10

*[Faint handwriting at the bottom of the page, possibly including a signature or date.]*

Without it, judicial tribunals would be at the mercy of the dissident and violent, who respect neither the laws enacted for the vindication of public and private rights, nor the officers charged with the duty of administering them."

p. 4  
BORTON

Ex Parte Terry, 128 U.S. 289 (1888). Insect

II. We have no doubt that the ~~refusal of~~ ~~refusal to~~ ~~answer relevant questions in~~ ~~Ms. Yates to answer the~~ ~~questions~~ ~~put to her on June 30~~ ~~refusals in question, constituted~~ ~~contempt~~ ~~within the meaning of~~ 18 U.S.C. § 401 (3).

A serious question is presented, however, as to the scope of the contempt power. It is petitioner's contention that ~~but a single contempt~~ ~~only one contempt~~ could be found, notwithstanding the many refusals she made, ~~since~~ ~~all of the~~ ~~questions related to that a single subject of inquiry,~~ ~~the~~ ~~same~~ ~~all of~~ ~~is~~ ~~her~~ ~~same~~ ~~all of~~ ~~the~~ ~~questions~~ ~~related~~ ~~to~~ ~~but a single subject, the identification of others as Communists,~~ ~~and since she had initially~~ ~~stated,~~ ~~on June 26, that~~ ~~she would~~ ~~identify~~ ~~others~~ ~~as~~ ~~Communists.~~ ~~answer~~ ~~questions~~ ~~related~~ ~~to~~ ~~such~~ ~~a~~ ~~subject,~~ ~~there~~ ~~is~~ ~~only~~ ~~one~~ ~~contempt~~ ~~committed.~~ ~~From~~ ~~the~~ ~~promise~~ ~~she~~ ~~made~~ ~~that~~ ~~only~~ ~~one~~ ~~contempt~~ ~~was~~ ~~committed,~~ ~~and~~ ~~complete~~ ~~at~~ ~~most~~ ~~and~~ ~~complete~~ ~~is~~ ~~of~~ ~~June~~ ~~26,~~ ~~the~~ ~~day~~ ~~on~~ ~~which~~ ~~she~~ ~~"~~ ~~came~~ ~~out~~ ~~"~~ ~~the~~ ~~area~~ ~~of~~ ~~refusal,~~ ~~so~~ ~~that~~ ~~no~~ ~~contempt~~ ~~was~~ ~~committed~~ ~~on~~ ~~June~~ ~~30,~~ ~~and~~ ~~imposition~~ ~~of~~ ~~criminal~~ ~~contempt~~ ~~sanctions~~ ~~for~~ ~~the~~ ~~refusals~~ ~~to~~ ~~answer~~ ~~that~~ ~~day~~ ~~violates~~ ~~the~~ ~~Double~~ ~~Jeopardy~~ ~~and~~ ~~Due~~ ~~Process~~ ~~provisions~~ ~~of~~ ~~the~~ ~~Fifth~~ ~~Amendment.~~

It is clear that the prosecution cannot multiply

~~of your own mind, and the only way to get at the truth is to~~  
~~ask the question, and the answer will come.~~  
~~It is not a matter of opinion, but of fact.~~  
~~The only way to get at the truth is to ask the question.~~  
~~and the answer will come.~~  
~~It is not a matter of opinion, but of fact.~~  
~~The only way to get at the truth is to ask the question.~~  
~~and the answer will come.~~

+ 10  
 - 10  
 = 0

Even if we <sup>assume</sup> ~~admit~~ the "Dont" <sup>correct in context</sup> ~~conclusion~~ that ~~is reached~~  
 the slow question ~~concerns several subjects of inquiry~~ ~~concerns more than a~~  
 single subject of inquiry, it ~~is~~ ~~appears~~

~~of the center of the system, and the only way to get at the truth is to~~  
~~ask the question, and the answer will come.~~  
~~It is not a matter of opinion, but of fact.~~  
~~The only way to get at the truth is to ask the question.~~  
~~and the answer will come.~~  
~~It is not a matter of opinion, but of fact.~~  
~~The only way to get at the truth is to ask the question.~~  
~~and the answer will come.~~  
~~It is not a matter of opinion, but of fact.~~  
~~The only way to get at the truth is to ask the question.~~  
~~and the answer will come.~~  
~~It is not a matter of opinion, but of fact.~~  
~~The only way to get at the truth is to ask the question.~~  
~~and the answer will come.~~  
~~It is not a matter of opinion, but of fact.~~  
~~The only way to get at the truth is to ask the question.~~  
~~and the answer will come.~~

contacts by repeated questioning as to the same subject of inquiry  
~~and~~ after <sup>repeatedly</sup> witness has once refused to answer a question addressed to  
 that subject. See United States v. Orner, 207 F.2d 148  
 (1953). But the Government contends that the questions which  
 Mrs. Yates refused to answer involved multiple subjects of inquiry,  
 and therefore support a finding of multiple contacts, some of which  
~~the Government is content in saying they~~ occurred on  
 June 26 and others on June 30.

~~It may be assumed~~ <sup>We may assume</sup> that several subjects of inquiry are  
 involved here. ~~Since the questions put to Mrs. Yates~~ <sup>the</sup> : the  
 clear questions put to Mrs. Yates on June 30 pertained to the Communist membership  
 of nine different persons, each of whom ~~is~~ <sup>is a separate sub-</sup>  
~~ject of inquiry.~~ Nevertheless, all of these subjects of inquiry possible  
 subjects of inquiry in these questions would be contained within the  
 area of refusal carved out by Mrs. Yates on June 26, <sup>when she flatly stated</sup> ~~the~~  
~~refusal~~ ~~to~~ ~~answer~~ ~~any~~ ~~of~~ ~~the~~ ~~above~~ ~~mentioned~~ ~~questions~~ ~~of~~ ~~other~~ ~~is~~ ~~Communist.~~ At this point  
 the Government makes another concession, pursuant to the holding of  
United States v. Costello, 198 F.2d 200, ~~supra~~, Cost.  
David, U.S. (1952), admitting that there would be  
 only a single contact if Mrs. Yates had flatly refused on June 26  
 to answer any questions at all and had maintained that position.  
 We deem it <sup>a fortiori</sup> ~~apparently~~ true that where a witness ~~declines to answer~~  
~~any~~ ~~of~~ ~~the~~ ~~above~~ ~~mentioned~~ ~~questions~~ ~~by~~ ~~declining~~ ~~to~~ ~~answer~~ ~~any~~ ~~of~~ ~~the~~ ~~above~~ ~~mentioned~~ ~~questions~~  
 the basis of refusal in more limited fashion by declining to answer  
 questions within a given area of investigation, the prosecutor cannot  
 multiply contacts by further questions within that ~~area~~ area.  
 The policy of the law must be to encourage rather than to discourage

When she  
 expressly  
 stated that  
 she would  
 not identify  
 others as  
 Communists.

To that end,

as much testimony as possible. ~~If a witness will~~ <sup>A witness</sup> ~~should not be~~ <sup>willing</sup> to testify freely as to all areas of investigation but one should not be ~~more heavily penalized~~ <sup>than a witness</sup> ~~unwilling~~ <sup>to give any testimony at all.</sup> Moreover, ~~the~~

Unless ~~the~~ <sup>limitations</sup> ~~are placed upon~~ <sup>are placed upon</sup>  
OVER

~~the~~ <sup>contempt statute</sup>, being similar to a criminal statute in its ~~effect~~ <sup>net effect</sup>, should be construed strictly in favor of the witness. <sup>8</sup>

~~The~~ <sup>spirit of</sup> ~~strict construction~~ <sup>is revealed in contempt cases</sup> ~~refusing~~ <sup>to answer</sup> ~~the~~ <sup>questions</sup> ~~asked~~ <sup>by the</sup> ~~committee~~ <sup>investigating</sup> ~~the~~ <sup>committee</sup> ~~is~~ <sup>the</sup> ~~basic~~ <sup>reason</sup> ~~for~~ <sup>refusing</sup> ~~to~~ <sup>answer</sup> ~~the~~ <sup>questions</sup> ~~asked~~ <sup>by the</sup> ~~committee~~ <sup>investigating</sup>

9) Once it is established that the witness has carried out ~~an~~ <sup>area</sup> of refusal, ~~the~~ <sup>inquiry</sup> must then be ~~directed~~ <sup>turned</sup> ~~toward~~ <sup>ascertaining</sup> whether all subsequent refusals to answer ~~questions~~ <sup>fall within that</sup> area. If they do, they ~~constitute~~ <sup>contain</sup> the ~~contempt~~ <sup>contempt</sup>, but they ~~do not~~ <sup>do not</sup> ~~constitute~~ <sup>constitute</sup> a new contempt. The Government suggests that ~~the~~ <sup>the</sup> ~~June~~ <sup>June</sup> ~~30~~ <sup>30</sup> ~~refusals~~ <sup>refusals</sup> must ~~constitute~~ <sup>constitute</sup> ~~a~~ <sup>a</sup> contempt.

8. The federal decisions that have dealt with the problem of multiplication of contempt have all involved contempt proceedings under 2 U.S.C. § 192, for refusal to answer questions before a legislative investigating committee.

← [Leave large space.]

The literal wording of the statute is such as to <sup>indicate</sup> ~~constitute~~ <sup>constitute</sup> ~~a~~ <sup>a</sup> ~~contempt~~ <sup>contempt</sup> for each and every refusal that ~~every~~ <sup>every</sup> refusal to answer ~~will~~ <sup>will</sup> be a contempt, but the decision ~~is~~ <sup>is</sup> ~~in~~ <sup>in</sup> ~~favor~~ <sup>favor</sup> ~~of~~ <sup>of</sup> ~~refusing~~ <sup>refusing</sup> to allow multiplication of contempt by ~~refusals~~ <sup>refusals</sup> ~~to~~ <sup>to</sup> ~~answer~~ <sup>answer</sup> ~~questions~~ <sup>questions</sup> ~~on~~ <sup>on</sup> a subject of inquiry ~~that~~ <sup>that</sup> ~~the~~ <sup>the</sup> ~~committee~~ <sup>committee</sup> ~~is~~ <sup>is</sup> ~~investigating~~ <sup>investigating</sup> ~~the~~ <sup>the</sup> ~~subject~~ <sup>subject</sup> ~~of~~ <sup>of</sup> ~~inquiry~~ <sup>inquiry</sup> ~~which~~ <sup>which</sup> the witness has ~~refused~~ <sup>refused</sup> to answer.

OVER

the multiplication of contempt, ~~the~~ <sup>as</sup> witness ~~is~~ <sup>will</sup> be at the mercy of an inquisitive prosecutor, who might ~~to~~ ~~be~~ ~~persecuted~~ ~~by~~ ~~hundreds~~ ~~of~~ ~~questions~~ ~~knowing~~ ~~full~~ ~~well~~ ~~that~~ ~~the~~ ~~witness~~ ~~will~~ ~~not~~ ~~answer~~ ~~them~~; answers will not ~~be~~ given, ~~requiring~~ ~~contempt~~ ~~penalties~~ ~~thru~~ ~~ly~~ ~~spawning~~ ~~contempt~~ ~~penalties~~ ~~in~~ ~~dis~~ ~~pro~~ ~~portion~~ ~~ately~~ ~~grossly~~ ~~disproportionate~~ ~~numbers~~ ~~as~~ ~~to~~ ~~be~~ ~~set~~ ~~of~~ ~~all~~ ~~reasonable~~ ~~proportions~~ ~~to~~ ~~the~~ ~~specific~~ ~~requirements~~ ~~of~~ ~~the~~ ~~specific~~ ~~requirements~~ ~~for~~ ~~Requirements~~ ~~of~~ ~~the~~ ~~administration~~ ~~of~~ ~~justice~~.

United States v. Orman, 207 F.2d 148 (3<sup>rd</sup> Cir. 1953); United States v. Costello, 198 F.2d 200 (2<sup>nd</sup> Cir. 1952);

to go into, United States v. Kamin, 135 F. Supp. 382 (D. Mass. 1955); United States v. Empeck, 95 F. Supp. 1012 (D. 1951); United States v. Yukawabe, 95 F. Supp. 991 (D. Hawaii 1951).

the refusal of

~~to go into~~ ~~proposing any limitation~~ ~~that is~~ ~~separate~~ ~~and~~  
 distinct from ~~that of~~ ~~the~~ June 26, since the ground ~~of~~  
~~refusal~~ ~~was~~ ~~not~~ ~~identical~~ for refusal <sup>on the two days</sup> did not remain  
~~identical~~.<sup>9</sup> Whereas on June 26 ~~the~~ Mrs. Yates refused  
 to ~~identify~~ ~~anybody~~ ~~is~~ ~~larger~~ ~~number~~ ~~of~~ ~~the~~ ~~Communist~~  
~~Party~~ persons as Communists, on June 30 she refused to  
 do so ~~if~~ ~~they~~ ~~could~~ ~~be~~ ~~hurt~~ ~~by~~ ~~her~~ ~~identifi-~~  
~~cation~~ ~~of~~ ~~them~~. Although the latter ground is not identical  
 to the former, <sup>if refused it carries</sup> ~~the~~ ~~same~~ ~~ground~~ ~~as~~ ~~the~~ ~~former~~ ~~is~~  
~~in~~ ~~June~~ ~~30~~ ~~is~~ ~~well~~ ~~within~~ ~~the~~ ~~ambit~~ ~~of~~  
~~refusal~~ ~~since~~ ~~on~~ ~~June~~ ~~26~~ ~~she~~ ~~refused~~ ~~to~~ ~~identify~~  
~~anybody~~ ~~is~~ ~~larger~~ ~~number~~ ~~of~~ ~~the~~ ~~Communist~~  
~~Party~~ persons as Communists, and as a consequence no new  
 contempt is committed. ~~We~~ find that the refusals  
 of June 26 and June 30 together constituted a single contempt.<sup>10</sup>  
 Therefore, ~~one~~ of the 11 contempt found below must be reversed.  
 ¶ Petitioner urges that all 11 be ~~reversed~~ since all of them  
 were imposed because of the June 30 refusal, arguing that the  
 single contempt in the case was ~~total~~ ~~refusal~~ ~~to~~ ~~answer~~ ~~any~~ ~~questions~~ ~~was~~

↓  
 FOOTNOTE  
 10 IS  
 ON  
 NEXT  
 PAGE

9. ~~Both parties~~ ~~agreed~~ ~~that~~ ~~the~~ ~~finding~~ ~~of~~ ~~two~~  
~~contempts~~ ~~in~~ ~~Contello~~, ~~supra~~, ~~for~~ ~~refusing~~ ~~to~~ ~~answer~~ ~~questions~~ ~~on~~  
~~two~~ ~~different~~ ~~days~~ ~~before~~ ~~the~~ ~~Dr~~ ~~Contello~~, ~~supra~~, ~~the~~ ~~court~~  
 upheld two contempts, one for each day of for refusing to answer,  
 one on each day of ~~one~~ of the two days that the witness ~~believed~~ ~~before~~  
 the committee, though it ~~reversed~~ ~~contempts~~ ~~stemming~~ ~~from~~  
~~additional~~ ~~refusals~~ ~~to~~ ~~answer~~ ~~additional~~ ~~questions~~ ~~on~~ ~~each~~ ~~of~~ ~~the~~  
 days. The ground for refusing to answer ~~on~~ ~~each~~ ~~day~~ stated ground for  
 refusing to answer any questions at all before the ~~sub~~ on either of the

two days were that the witness was too ill to testify. It does not appear that the ~~witness~~ court considered the possibility that only one contingency might have been committed ~~in~~ ~~at~~ by the refusals of both days. Moreover, the proof of illness ~~on each occasion~~ was different on each day. On March 15, ~~varied~~; on the first day, the witness ~~and~~ produced a doctor's certificate that the witness was suffering from laryngitis and should stay in bed. The next day, the committee called that doctor before it, and he said that the witness could testify one hour a day. Thereupon, the witness presented a certificate from another physician ~~to~~ to the effect that continued conversation by the witness would be dangerous to his health.

completed on ~~the~~ June 26, ~~so~~ so that no contempt at all  
 was committed on June 30. ~~The best reason for this is~~  
 His conclusion rests upon a false premise. The <sup>single</sup> contempt of  
 the case was a continuing contempt; ~~and each refusal~~  
~~of June 30 was a new contempt~~  
~~as a refusal of contempt~~ Mrs. Yates' flouting of the  
 judge authority of the court, ~~though it did~~ <sup>although</sup> within the  
~~bounds~~ boundaries of refusal <sup>given</sup> established by the witness on June 26.  
~~and the~~ ~~therefore~~ the contempt was not total until the ~~last~~  
~~refusal on June~~ While the contempt was total on June 26, it  
 was not completed until June 30, on which day it also was  
 total.

10. ~~Imposition of a civil contempt sentence on Mrs. Yates that~~  
~~withholding that there is but one contempt that but one contempt~~  
~~was committed by Mrs. Yates, Imposition of the civil contempt~~  
~~sentence for the June 26 refusal is no basis~~  
~~to impose a criminal contempt sentence for the June 30 refusal~~  
 to criminal punishment for the June 30 refusal, under the ~~Double~~  
 notwithstanding the fact that but one contempt was committed by  
 the refusals of both days. United States v. United Mine Workers  
330 U.S. 258 ( ) Herman v. Mitchell  
350 U.S. 148, 150 ( );  
United States v. United Mine Workers, 330 U.S. 258 ( ).

finding of a  
 single contempt  
 means that the

It does that ~~contempt~~ <sup>OVER</sup> criminal contempt sentence under review  
 in this case violates the Double jeopardy Clause because of  
 the court also imposed a criminal contempt sentence for the  
 OVER

add:

And to require the simultaneous etc. p. 7

Insert II 1/2  
p. 7 Burton

Insert II 1/2

→ June 26 refusal. The latter criminal contempt sentence was reversed on appeal, note 3, supra, and on any event was imposed after the criminal contempt sentence for the June 30 refusal rather than vice versa.

Handwritten notes in a box on the right margin.

~~Petitioner also ~~at~~ ~~the~~ ~~court~~ argues that the~~

Burton at  
p. III ←

Insert III.

The error of multiplying ~~the~~ ~~contracts~~ ~~in~~ ~~the~~ ~~case~~ is not fatal in this case, ~~for one of the~~ ~~contracts~~ ~~is~~ ~~left~~ ~~standing~~ ~~and~~ ~~the~~ ~~others~~ ~~are~~ ~~not~~ ~~being~~ ~~reconsidered~~ because the ~~sentences~~ ~~imposed~~ were concurrently imposed. To support ~~such~~ ~~a~~ ~~conviction~~, it is <sup>only</sup> necessary that one of the ~~valid~~ ~~concurrent~~ sentences be valid. Simlar v. United States, 279 U.S. 263, 249; Pinkerton v. United States, 328 U.S. 640. Nevertheless, we are impelled by ~~the~~ ~~fact~~ ~~that~~ ~~by~~ ~~such~~ ~~facts~~ to ~~return~~ ~~the~~ ~~case~~ ~~to~~ ~~the~~ ~~district~~ ~~court~~ ~~for~~ ~~reconsideration~~ ~~of~~ ~~the~~ ~~sentences~~ ~~imposed~~: ~~the~~ ~~number~~ ~~large~~ ~~number~~ ~~of~~ ~~contracts~~ ~~that~~ ~~were~~ ~~originally~~ ~~found~~ ~~blameworthy~~ ~~may~~ ~~have~~ ~~influenced~~ ~~the~~ ~~court~~ ~~to~~ ~~impose~~ ~~a~~ ~~single~~ ~~sentence~~ ~~for~~ ~~each~~ ~~contract~~ ~~larger~~ ~~than~~ ~~that~~ ~~which~~ ~~is~~ ~~imposed~~ ~~in~~ ~~contract~~ ~~cases~~ ~~ordinarily~~ ~~imposed~~ ~~in~~ ~~contract~~ ~~cases~~; the petitioner has ~~already~~ ~~served~~ ~~a~~ ~~period~~ ~~of~~ ~~some~~ ~~70~~ ~~days~~ ~~in~~ ~~prison~~ ~~and~~ ~~has~~ ~~been~~ ~~imprisoned~~ ~~over~~ ~~70~~ ~~days~~ ~~pending~~ ~~final~~ ~~determination~~ ~~of~~ ~~all~~ ~~the~~ ~~proceedings~~ ~~against~~ ~~her~~; the reversal of the conspiracy conviction makes it necessary to readjust the ~~time~~ ~~at~~ ~~which~~ ~~the~~ ~~contracts~~ ~~sentences~~ ~~as~~ ~~to~~ ~~the~~ ~~commencement~~ ~~of~~ ~~the~~ ~~conspiracy~~ ~~and~~ ~~since~~ ~~the~~ ~~sentences~~ ~~were~~ ~~imposed~~ ~~as~~ ~~to~~ ~~the~~ ~~commencement~~ ~~upon~~ ~~the~~ ~~completion~~ ~~of~~ ~~petitioner's~~ ~~imprisonment~~ ~~for~~ ~~the~~ ~~conspiracy~~ ~~under~~ ~~the~~ ~~conspiracy~~ ~~conviction~~.

11

The judgment ~~is~~ <sup>is</sup> reversed as to 10 of the contempt convictions, affirmed as to <sup>one</sup> contempt conviction, and remanded ~~affirmed in part, and reversed in part,~~ to the District Court for reconsideration of the sentence in light of the factors mentioned above.

affirmed in part, reversed in part, and remanded to the District Court with instructions.

#